**THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY**

**W.P. NO. 20121 of 1995**

**DATED 24-01-2007**

Between:-

S.Md. Shafiulla s/o S.Rangin Saheb, aged about 41 years, Senior Assistant, O/O Managing Director, T.R.E.S.C.O. Rayachoti, Cuddapah District.

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PETITIONER

And

The Managing Director, The Rural Electric Supply Coop. Society Limited, Rayachoti, Cuddapah District and 2 others.

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RESPONDENTS

**THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY**

**W.P. NO. 20121 of 1995**

**O R D E R**

This writ petition is filed for a Writ of Mandamus to declare the proceedings, dated 04-02-1995, issued by the Rural Electric Supply Cooperative Society Limited, Rayachoti (for short 'RESCO') whereby the conversion of the petitioner's post into one of Senior Assistant was cancelled and the petitioner was directed to work as Typist/Senior Assistant till necessary substitute arrangements are made.

From the averments contained in the affidavit, it appears that the petitioner was initially appointed as Typist on a consolidated pay in RESCO in April, 1978, and he was subsequently appointed as regular Typist with effect from 13-03-1980. The petitioner's probation was also declared later. The petitioner was subsequently promoted as Typist/Senior Assistant temporarily by the proceedings dated 24.03.1994 of the Managing Director, RESCO. Through another proceedings dated 21.01.1995 issued by the Managing Director of RESCO, the petitioner's post is converted as that of Senior Assistant in the time scale of Rs. 2260-

4265. The petitioner was, since then, working as Senior Assistant. However, as mentioned earlier by the impugned proceedings, the said conversion orders were cancelled and the petitioner is directed to work as Typist/Senior Assistant till substitute arrangements are made.

On behalf of the RESCO, its Managing Director filed a counter affidavit. It is mentioned in the counter affidavit that the cancellation of conversion proceedings of the writ petitioner was made due to the exigency of work. It is mentioned that the RESCO is running on losses; there are 16 Senior Assistants in the society and they are not having any typist qualification. Since there was no qualified typist to attend to the typing job, the petitioner was asked to attend to the typing duties. It was, however, made clear by the respondents in the counter affidavit that though the petitioner's conversion order was cancelled, the pay scale attached to the post of Senior Assistant is not denied to the petitioner, and that he is being paid by scale as was given to the petitioner as Senior Assistant.

When the writ petition came up on earlier occasion, it was noticed that the RESCO was merged into Andhra Pradesh Southern Power Distribution Company Limited, Tirupati, and the petitioner was permitted to amend the writ petition by adding the said company. An application registered as W.P.M.P. No. 26641 of 2006 has been filed by the petitioner seeking impleadment of the functionaries of the Andhra Pradesh Southern Power

Distribution Company Limited as a party, without impleading the Distribution Company. Ordinarily, I would have directed the writ petitioner to cure this defect. In view of the fact that the Writ Petition is of the year 1995, and this would lead to inevitable delay, I have not chosen to adopt this course. Learned counsel Standing Counsel Smt. Saraswati has taken notice for the proposed implead-respondents and has not raised any objection in this regard. By a separate order, W.P.M.P. No. 26641 of 2006 is allowed, permitting the impleadment of the petitioners therein as respondents 2 and 3 to this writ petition.

Heard Sri K. Ramakrishna Rao, learned counsel appearing for Sri D. Linga Rao, learned counsel for petitioner and Smt. Saraswati, learned standing counsel representing Sri S. Kishore, learned standing counsel for respondents 2 and 3.

The proceedings dated 24.03.1994 by which the petitioner was promoted, shows that the substantive post to which he was promoted was Senior Assistant/Typist. The proceedings, dated 21.01.1995, under which the petitioner is appointed as Senior Assistant by conversion refers to the note orders of the Chairman, RESCO. However, the order does not contain the reasons why the petitioner's post is converted into that of the Senior Assistant. Be that as it may, from the impugned proceedings, it is clear that the cancellation of the proceedings dated 21.01.1995 was impelled due to

the absence of a substitute typist, the post of which fell vacant and it is further clear from the said proceedings that the petitioner is directed to work as Typist/Senior Assistant till necessary substitute arrangement is made. It is not disputed that the petitioner's pay scale, which was provided in the proceedings dated 21.01.1995 at the time of the conversion of his post, is not reduced. Under these circumstances, it cannot be said that the order dated 04.02.1995, which was based purely on account of exigency of work is either arbitrary or illegal. Being an employee, the petitioner cannot chose to discharge the nature of the work of his choice and it is the prerogative of the employer to make use of services of its employees depending upon the exigencies of work. As already noticed, in view of the non-availability of a qualified typist, the petitioner is asked to discharge the work of Typist as a stop-gap arrangement till a substitute is posted in his place. Under these circumstances, I do not see any justifiable reason to interfere with the order of the RESCO.

The writ petition therefore fails and is, accordingly, dismissed. No order as to costs.

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C.V.NAGARJUNA

REDDY, J

24th January, 2007

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